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November 14, 2004

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th St., S.W.
Suite TW-A325
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: WC Docket No. 04-405

This purpose of this letter is to comment to the FCC about the recent BellSouth petition for forbearance regarding incumbent LEC provision of broadband. We wish to further inform the FCC of our circumstances as an independent Internet Service Provider in a large metropolitan market. We do not believe that it is in the public's interest to rule favorably on the BellSouth petition. We further believe that stronger regulation of the RBOC's and Cable companies is needed.

We have experienced unfair, unethical, and vicious predatory efforts from SBC, the RBOC we're forced to "partner" with in Houston Texas. We believe SBC's intent is to ruin our business to avoid competing with our services, our technical support, and our innovative skills. We believe that SBC has the ultimate goal to establish themselves as the regional monopoly broadband provider over the public's telephone infrastructure and thereby to eventually avoid all forms of competition including price.

We are Oplink.net (<http://www.oplink.net>), a small Internet Service Provider in the Houston Texas Metropolitan market, and since 1999 we've been serving our Houston clients with broadband DSL Internet services. We pay SBC wholesale charges for individual client DSL transport and for data aggregation on an ATM link to our office.

In 1999 our monthly SBC charges were \$39 per client for wholesale DSL transport, and an additional average \$5 per client ATM cost. These costs were partially offset by a recurring \$5 monthly commission paid to us per client. Therefore, our total SBC monthly wholesale cost was \$39, and this allowed us to net about \$10/month per client (not including our overhead) if we priced our product the same as SBC priced their similar product.

Since 1999, SBC has lowered their retail cost \$30/month, which of course is fine and benefits the broadband consumer in Houston. However, in the same period SBC has lowered our wholesale cost only \$21/month and discontinued our \$5 commissions. SBC is now selling retail DSL for less than our wholesale DSL cost. This forces us to charge

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more than SBC for similar services, and this lessens competition and harms the consumer in Houston. In addition, we have employee salaries, Internet backbone costs, equipment costs, office rent costs, etc., etc., that add up significantly. We believe SBC's wholesale pricing scheme is predatory and unethical.

Our customers benefit from our excellent personal support and the technology we've implemented such as our innovative account management system, our web mail system, our spam and virus filtering, among others. We're constantly improving and innovating to attract and keep our customers, continually upgrading our Internet backbone and our equipment to provide superior service and reliability. We have employees engaged in open source experimentation and development that benefits the entire industry. All these benefits to our customers and the Internet community and the jobs we provide will be lost if Oplink.net and other similar ISP's fail because of unfair business practices.

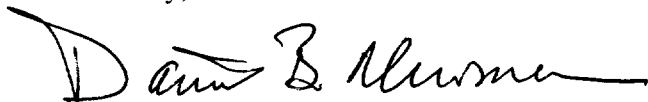
Based on our example, we hope the FCC understands that it's unwise to grant the Bell companies their desire for deregulation of broadband services. The Bell companies have been behaving similarly, with almost identical retail and wholesale pricing, almost as if they were engaged in collusion. These companies are used to being monopolies and they seem to crave a return to that status. Numerous small ISP's have already failed and more will fail unless the FCC takes aggressive action.

We need FCC action that will force the Bell companies to lower their wholesale broadband costs as much as they lower their retail costs, rulings that promote us earning at least a reasonable, modest profit over our wholesale costs.

We need FCC rulings that allow us to stay in business. Approval of the Bellsouth petition would be a disaster for us and other small businesses in like circumstances.

Furthermore, we ask the FCC to improve the competitive environment in broadband by requiring all providers of broadband transmission, including regional monopoly cable, to operate under similar rules. We believe that any company granted monopoly status in the public domain should be required to provide access to competitors under fair terms.

Sincerely,



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